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February 9, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Dear Ms. Salas

On behalf of Tichenor License Corporation, there are herewith submitted an original and four (4) copies of its Reply to Opposition in MM Docket No. 95-49 (RM-8558).

Please direct any inquiries regarding this matter to the undersigned counsel.

Sincerely

  
Lawrence N. Cohn

Enclosure

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BEFORE THE

# Federal Communications Commission

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 95-49
Table of Allotments,	)	RM-8558
FM Broadcast Stations	)	
(Llano and Marble Falls, Texas)	)	

TO: The Chief, Allocations Branch

Reply To Opposition

Tichenor License Corporation ("TLC"), licensee of Station KLTO(FM), Rosenberg-Richmond, Texas, and KLTP (FM), Galveston, Texas, hereby submits this Reply to the "Opposition to Motion for Resolution of Rule Making Proceedings" filed with the Commission by Maxagrid Broadcasting Corporation ("Maxagrid"), licensee of Station KBAE(FM), Marble Falls, Texas, on January 28, 1998.

TLC's Motion for Resolution of Rule Making Proceedings ("Motion") proposed a method by which the Commission could satisfy the interests of all the parties in this proceeding and the related one initiated by BK Radio, by making certain changes in the FM Table of

Allotments in the communities of Llano, Marble Falls, Menard, and Missouri City, Texas. All parties with interests in this proceeding (i.e., all parties which filed applications for Llano, Texas in the window established by the FCC in Report and Order (Llano and Marble Falls, Texas), 12 FCC Rcd 6809 (Chief, Allocations Branch, 1997) ("Report and Order") were served by TLC. The only party which filed a pleading in response to TLC's Motion was Maxagrid. Maxagrid's Opposition does not discuss the merits of TLC's proposal to amend the FM Table of Allotments. It may be presumed, therefore, that Maxagrid agrees that the interests of all parties, including its own interests, would be served by the adoption and implementation of TLC's proposal as set forth in the Motion.<sup>1/</sup>

Maxagrid's opposition to TLC's proposal is based upon its belief that the Commission can not grant or approve TLC's proposal because TLC's counterproposal was untimely filed and because the application of Elgin FM Limited Partnership ("Elgin") for Llano must be the subject of a separate rulemaking proceeding. Maxagrid particularly disputes TLC's reliance on Churubusco, Indiana, 5 FCC

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<sup>1/</sup> In the opening sentence of its Opposition, Maxagrid states that it opposes TLC's Motion "at least in part". Although Maxagrid does not explain what it means by this qualifier, it may be assumed that Maxagrid means that it has no objection to the substance of the proposal set forth in TLC's Motion, and has filed its Opposition only because of what it believes are procedural short-comings in TLC's proposal.

Rcd 916 (1990), wherein the FCC denied a request for enlargement of a rulemaking proposal because the proponent advanced its proposal in an untimely manner.

There are two answers to Maxagrid. The first is that TLC continues to maintain that its counterproposal was made in a timely manner and has set forth its view on that matter in the pending Petition for Reconsideration of the Commission's Report and Order. If the Commission accepts TLC's position on the timeliness issue, the basis for Maxagrid's Opposition is eliminated because there would be no procedural or substantive barriers to satisfying the interests of all the parties in this case.

Second, TLC reiterates that it proposed resolution of the Llano, et al. rulemaking preceding would satisfy the interests of all-- repeat, all-- the parties, including, of course, Maxagrid and, moreover, that its proposal has been opposed on the merits by absolutely no one. That being the case, the situation is not the same as the one which led the Commission to reject a late - filed counterproposal in Churubusco. Id., Paragraph 10 (where an objecting party claimed that "it would incur additional time, expense, and delay in amending its application to specify a new transmitter site if Channel 274A is allotted to Churubusco instead of Channel 242A.") Indeed, approval of TLC's proposal would eliminate any delay involved in resolving the conflicting proposals for Channel 242A at Llano based on the Commission's resolution of

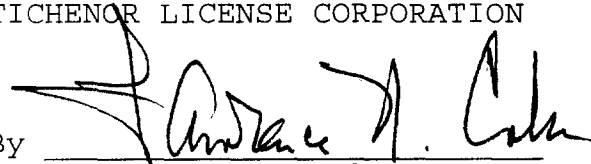
Implementation of Section 309(j) of the Communications Act --  
Competitive Bidding for Commercial Broadcast and Instructional  
Television Fixed Service Licenses, MM Docket No. 97-243, and  
related proceedings (released November 26, 1997).

The Commission has the authority to consider TLC's counterproposal, and to incorporate Elgin's rulemaking request into the instant proceeding if it believes the public interest would be served thereby. For the reasons explained in TLC's Motion and herein, TLC believes that the facts of this case, and particularly the fact that TLC's FM allotment proposal would meet the interests of all the parties, is sufficient grounds for the Commission to grant TLC's proposal.

Respectfully submitted,

TICHENOR LICENSE CORPORATION

By



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Dated: February 9, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have, this Ninth day of February, 1998, sent copies of the foregoing Reply to Opposition by first class United States Mail, postage prepaid, to:

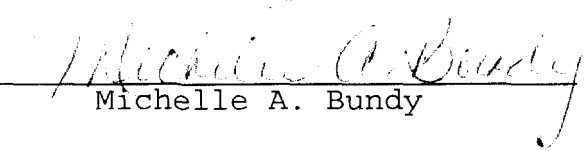
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